

**DWYER**

**FINAL STATEMENTS**

**PRESS CONFERENCE**

**PENNSYLVANIA TREASURER'S OFFICE**



Commonwealth of Pennsylvania  
Office of the State Treasurer  
Harrisburg  
17120

R. BUDD DWYER  
TREASURER OF PENNSYLVANIA

1-20-87  
Dear George & Lorraine,  
I thank you for your  
friendship and help  
over the years.  
R. Budd Dwyer  
Budd!

JOE BIDEN

The Honorable ~~Strom Thurmond~~  
United States Senator and  
Chairman, Senate Judiciary  
Committee  
Room 218 Russell Bldg.  
Washington, DC 20510

The Honorable Peter W. Rodino, Jr.  
United States Congressman  
Chairman, House Judiciary  
Committee  
Room 2462 Rayburn Office Bldg.  
Washington, DC 20515

BIDEN

Dear Senator ~~Thurmond~~ and Congressman Rodino:

The purpose of this letter is to respectfully request you in your capacity as Chairman of the Judiciary Committee to conduct a full-fledged investigation of what is known in Pennsylvania as the "CTA scandal". As a former high school teacher of Problems of Democracy and an elected official for over 20 years, I was naive about our legal system. I thought it was ideal, and I did not realize it could be used for political persecution. I did not pay attention to the investigative reports, or the work of various organizations attempting to promote the creation of a justice system in fact as well as in name here in the United States because I was taught that if I obeyed the laws and was a good citizen, I would be one of the 95% of our population who never became involved with our criminal legal system.

Then my idealism was suddenly destroyed. I became a victim of political persecution right here in the United States, which I never thought could happen!

I know what happened to me and why it happened because many people from a variety of sources have provided me with various pieces of information which together tell the story. Unfortunately, I have only the oral word from many of these people. I have written out everything that has been told to me which tells the full story of why, how and by whom I was politically persecuted. This information can be made available to the proper legal authorities by certain people who have a copy of the story.

You are the only ones who can make positive changes and move our legal system closer to our ancestors' goal of having a true system of justice here in the United States. You have subpoena power and the important power to grant immunity to people who reveal the truth to you. Many of my staff, friends and family will be pleased to assist you and share my unpublished story with you.

In addition, based on my experiences with our legal system, I request you to enact legislation in the following areas:

1. The establishment of a Code of Ethics and Conduct for U.S. Attorneys, their assistants and members of the Federal Bureau of Investigation.

2. Halt abuses and excesses by U.S. Attorneys and their assistants in the utilization of plea bargains and various other types of legal "Jails".
3. The restoration of Federal Grand Juries to their historic purpose of protecting citizens, thereby uplifting them from the prosecutor's "rubber stamp" function to which they have fallen.
4. The abolition of leaks and bonus payments to FBI agents.

Enclosed are four short papers regarding some of the above suggestions. They tell part of my story. (You have the power to develop the conclusion.) They are based on my personal experience.

Please investigate these matters and enact legislation to correct these problems.

It's too late to help me, but it is not too late to help others, perhaps including you. It is what our forefathers in 1776 and the delegates to our Constitutional Convention in 1787 in Independence Hall would want you to do.

If you do not do it now, someone will have to do it later if any semblance of a justice system is to survive in the United States and, in the meantime, many other innocent people like my family and me will have suffered unjustly. Until this occurs, I suggest that the word "Justice" be removed from the Department of "Justice" buildings, stationery, forms, I.D. Cards, badges, subpoenas, etc. and a blank left in place of the word "Justice" as a reminder to that Departments' staff members and the citizens of the United States that we do not have a true "Justice" system in the United States.

Thank you very much for your consideration.

Sincerely,



R. BUDD DWYER  
TREASURER OF PENNSYLVANIA

Enclosures

cc: U.S. House Judiciary Committee and staff  
U.S. Senate Judiciary Committee and staff  
Pennsylvania Congressional Delegation

REFORM THE "JUSTICE" SYSTEM - REFORMS FOR THE U.S. ATTORNEY'S OFFICE

Supreme Court Justice John Marshall once said in an opinion, "The power to tax involves the power to destroy." Justice Marshall would have been equally perceptive if he had said, "The power to unfairly prosecute involves the power to destroy."

The position of U.S. Attorney is one of the most powerful positions in the United States government because there is no check or balance for a U.S. Attorney who abuses his position, uses the position for political gain or uses the position for a personal vendetta against innocent citizens.

My personal experience as an innocent victim of our legal system leads me to recommend the following reforms to help convert our current legal system to a true system of Justice.

- I. A U.S. Attorney should be controlled by a Code of Conduct and Ethics. If a U.S. Attorney or a member of his family is a friend, former employee or has a personal relationship with a person under investigation or an attorney representing a person being investigated, the U.S. Attorney should completely remove himself or herself from the case. The case of the CTA investigation in the Middle District of Pennsylvania (1984- ? ) is an illustration of the need for a Code of Ethics and Conduct. The Acting U.S. Attorney, James West, was a former employee of Pennsylvania Governor Dick Thornburgh. West had been an Assistant U.S. Attorney when Thornburgh was U.S. Attorney for the Western District of Pennsylvania and had been appointed by Thornburgh to serve as a Pennsylvania Deputy Attorney General when Thornburgh became Pennsylvania's Governor in 1979. When Roy Zimmerman became Pennsylvania's first elected Attorney general in 1981, Zimmerman reappointed West as a Pennsylvania Deputy Attorney General.

The CTA case involved allegations of bribery to various Pennsylvania public officials. Allegations were made that bribes had been offered to Pennsylvania's Treasurer, Budd Dwyer; Attorney General, Roy Zimmerman and/or his staff members and members of Governor Thornburgh's staff. With West's two immediate former employers, Thornburgh and Zimmerman, or some of their staff members involved in the investigation, it was a situation which should have mandated that West remove himself from the investigation. Instead, he assumed full personal control of the investigation. Dwyer, although of the same political party as Thornburgh, had fulfilled his role as an independently elected official and had refused to pay various bills including some for the Governor's family. Whenever Dwyer or anyone associated with him was called before the Grand Jury, the media was somehow alerted and received leaks of the testimony as news media accounts indicate. In contrast, the

appearances of Zimmerman's staff members before the Grand Jury were in secret and members of Thornburgh's staff were not called before the Grand Jury as far as can be determined.

In contrast to James West's actions in the CTA investigation, during the same time frame in California, the U.S. Attorney for Southern California, Robert C. Bonner, removed himself from the investigation of the California Assembly Democratic Leader simply because Bonner had been a law partner of the Attorney representing the Assembly Leader. Bonner's commendable self-removal was a matter of his personal ethics and had nothing to do with any requirement of the U.S. Department of "Justice".

Bonner's Chief Assistant pointed out, "Rob (Bonner) has no ethical or legal obligation to recuse himself..." Los Angeles Times, page 1 METRO, December 6, 1985. Clearly, Congress should enact legislation requiring recusal by U.S. Attorneys in investigations where they have conflicts of interest. Failure to recuse themselves should lead to dismissal and prosecution for Prosecutorial Misconduct.

- II. U.S. Attorneys and Deputies and FBI agents should be prohibited from running for public office or becoming criminal defense lawyers for clients being investigated by the Federal government for a minimum of five years after leaving their positions in the U.S. Attorney's Office.

A review of candidates for state and Federal office will indicate that many candidates have served in the U.S. Department of "Justice". For example, the 1978 gubernatorial primary in Pennsylvania had three candidates who had served with the "Justice" Department in U.S. Attorney's Offices and/or in the Washington office. Former "Justice" Department lawyers won both the major party nominations.

Some lawyers serving appointments in the U.S. Attorney's offices throughout the U.S. do not appear to be as interested in seeking truth or justice as they are interested in seeking publicity and "big pelts" in the form of public officials, successful businesspeople, sports figures and others who are of interest to the news media so that the particular U.S. Attorney can become better known for a future political campaign. Other U.S. Attorneys appear to be more interested in building a big resume of prosecutions so that they can command six figure incomes as criminal defense attorneys in criminal defense law firms.

Regardless of the motive, self-serving U.S. "Justice" Department attorneys are a disservice to the general public who think their tax dollars are paying for a Justice system and

especially to the subjects and targets of their sensational publicity seeking investigations.

One of the most basic provisions of state and municipal Codes of Ethics is that former officials and management category public employees cannot do lobbying work, or practice law in connection with their former public employer for varying lengths of time. Why then, shouldn't the U.S. Department of "Justice" from which most U.S. citizens think they are receiving objective justice and truth have a similar Code of Ethics provision for U.S. Attorney's, their assistants and FBI agents?

- III. The legal costs of those under investigation should be paid by the government if there is no indictment or if there is an indictment or no conviction. This is an obvious reform. At current legal costs, it is unfair and unAmerican for the U.S. Government to financially ruin innocent businesses, families and individuals and then walk away from them. Volumes could be written on this topic. The government already provides legal counsel for those unable to financially afford private counsel. Why then is it fair and legal to financially ruin innocent citizens who can initially afford the horrendous costs of private counsel but whose assets vanish during an investigation and trial. The costs of this gigantic step toward creating a Justice System in the United States would be comparatively minimal since the current "Justice" Department proudly boasts of a conviction rate of approximately 95%.

REFORM THE JUSTICE SYSTEM - OUTLINE OF THE U.S. GOVERNMENT'S QUESTIONABLE USE OF PLEA BARGAINS

Certain very questionable activities are legal in the United States today if they are done by and for the Government. The root of this practice in the United States is in the dubious use of plea bargains by prosecutors. If these things were done by a private citizen they would probably be against the law.

Plea bargaining was originally created to save public funds and the resources of our legal system. If the evidence was overwhelming against a defendant, plea bargaining gave the prosecution and defendant's attorney the opportunity to "bargain" a recommendation to the court for a reduced sentence, and have dismissal of counts in exchange for the defendant's guilty plea to a reduced number of counts, substituted lesser counts, etc. This saved the legal system the time and financial expenditure involved with conducting a trial for a person who was guilty, but otherwise would have pursued a trial hoping that the "law of averages" or a legal technicality would result in eventual acquittal. Unfortunately, some U.S. Attorneys have abused the plea bargain process and used it in a manner far removed from the original purpose.

The following actual example from the so-called "CTA Case" in the U.S. Middle District of Pennsylvania (1984- ? ) is a good illustration.

John Torquato, Jr. had bribed David Herbert, then Pennsylvania's Director of Social Security for Public Employees, to provide incomplete and false information to the Pennsylvania Treasury Department FICA recovery task force in a successful effort to steer the contract to Torquato's company. Both Torquato and Herbert admitted this bribe. Torquato admitted he directly lied to members of the Task Force. However, the State Treasurer who had awarded the contract to Torquato based on the recommendation of his Task Force, was in prosecutorial terminology a "big pelt". Thus, a plea bargain induced Torquato to provide testimony against Dwyer. Torquato had originally been indicted on 16 counts with a maximum penalty of 80 years in prison and a \$106,000 fine. Torquato's business associate and live-in girlfriend was indicted on identical counts, as were two of Torquato's companies.

The plea bargain to Torquato consisted of the following:

Torquato's 16 counts were reduced to one count with a fine of \$10,000 and the prosecutors guarantee that he would recommend a two-year prison term, which meant that Torquato would only serve a few months at the Federal prison camp of his choice. This would save Torquato almost the entire 80-year prison exposure and \$96,000 in fines. In addition, 15 counts against Torquato's business associate-girlfriend were dropped in her plea bargain and she was given a one-month sentence, required to participate in an alcohol treatment program and pay a \$5,000 fine. Thus, another potential \$101,000 in fines and 79 years and 11 months incarceration exposure were dropped by the government.

But acting U.S. Attorney James West was not finished with his favors to Torquato. Shortly before the beginning of the Smith-Stoneman trial in which

Torquato and Ellis were to be the key witnesses, the Acting U.S. Attorney dropped all 16 counts in the indictment against both of Torquato's companies. The result - another potential savings to Torquato of \$212,000 in fines. Total - \$96,000, plus \$101,000 to his girlfriend, plus \$212,000 equals a \$409,000 plea bargain fine forgiveness the U.S. Government to admitted felons Torquato and Ellis plus the massive reduction in incarceration time. Torquato also was not prosecuted for the possession of an illegal machine gun or other possible Federal offenses and another business partner, who was his father, was not prosecuted. In February of 1985, the Acting U.S. Attorney James West, appeared before Torquato's parole board to recommend further leniency for Torquato. This is unheard of while a case is still in progress.

West won the conviction of Smith and Stoneman to a great extent with Torquato's and Ellis' testimony. The Acting U.S. Attorney next turned his attention to two "big pelts", the State Treasurer and the former Pennsylvania Republican Chairman. At his trial, Smith had truthfully testified that he and Torquato had never offered a bribe to Treasurer Dwyer in return for the personal services contract. Following his conviction, Smith was financially broke from the cost of his trial and was facing a 12-year prison sentence, but Smith stuck with his truthful testimony.

However, Smith's law partner was his wife Judy, who allegedly had heard some of the discussions when Torquato and Smith were alleged to have conspired to bribe public officials.

Four months after his conviction, Smith was told that his wife, Judy, the mother of their five-year old son and stepmother of their 13-year old child, would be indicted. Financially broke, sentenced to a 12-year prison term, and faced with the indictment of his wife and mother of his children, Bill Smith did what most men, other than G. Gordon Liddy, would do. He agreed to change his trial testimony and corroborated Torquato's testimony. To sweeten his deal with Smith, Acting U.S. Attorney James West also agreed that if Smith lost his appeal he would recommend to the Court that Smith serve no longer than the 22 months Torquato would serve and have his fine reduced to \$10,000. There was no plea involved. Smith had been convicted and his wife, Judy, was given immunity without admitting any wrongdoing. It was a simple case of the U.S. Attorney using such inducements to obtain wanted testimony.

There is no check and balance to the U.S. prosecutors utilizing such inducements to obtain desired testimony in pursuing an innocent victim. A review of the transcript of the Smith-Stoneman trial will show that at least a dozen people testified that Torquato had given untruthful testimony and at least five people had testified that Torquato's live-in girlfriend-partner had given untruthful testimony. The State Treasurer tried to fight back against the use of the legal system to persecute him. He tried to bring a private perjury case against Torquato and Ellis, but he was stopped cold. Why? After extensive research, Dwyer's legal staff told him that only a prosecutor could bring perjury charges. Thus, if perjured testimony benefits the government the prosecutor can choose not to indict the individual for perjury as has happened in this case.

The ultimate irony! By now you won't be surprised to learn that it was the State Treasurer who was indicted for perjury. Research this case. The above review only scratches the surface.



REFORM THE "JUSTICE" SYSTEM - RESTORE THE GRAND JURY

The Grand Jury was created in England several centuries ago to protect innocent citizens from corrupt or overreaching prosecutors, and at that time was considered to be a great democratic legal reform. The Grand Jury was adopted in the U.S. upon the ratification of the 8th Amendment to our Constitution to continue this protection for U.S. citizens. Unfortunately, in recent decades the Grand Jury system in the U.S. has deteriorated to a point where it has become a rubber stamp choir for the prosecution, and instead of protecting citizens, the Grand Jury now aids the undermining of the original intent of the system and of overreaching by prosecutors against innocent citizens.

In many states and local jurisdictions, the Grand Jury has been recognized as the sham it has become, and has been abolished or modified. The Grand Jury cannot be abolished at the Federal level since the Grand Jury is required in the Bill of Rights of our Federal Constitution. Since Federal Grand Juries can't be abolished, the U.S. Congress should enact legislation providing that Grand Juries be modified from their current "choir" status to restore the historic protection for innocent citizens.

An analogy can be found in Pennsylvania government. Several decades ago, the Pennsylvania Public Utility Commission (PUC) was created to protect utility consumers from the monopolistic, self-serving and overreaching utilities. Over the years the utilities ingratiated themselves with the PUC. The consumers lost much of their protection and the PUC became known as simply the "Utility Commission".

The Pennsylvania legislature, responding to anguished pleas from consumer groups, restored a measure of protection by creating the office of Consumer Advocate whose attorneys now appear before the PUC Commissioners in opposition to the rate increase proposals being advocated by the attorneys for the utilities.

The implementation of the following similar recommendations would be a significant step to restoring the Federal Grand Jury's protection for innocent citizens:

- I. A Grand Jury "Master" or some objective person should control the Grand Jury rather than the U.S. Attorney, from whom the Grand Jury was originally supposed to provide objective protection for the innocent citizens under investigation. Under the current operation of Federal Grand Juries, the U.S. Attorney essentially exercises totalitarian power over the Grand Jury system, determining who will appear, what questions will be asked, when the Grand Jury will meet, preparing the indictments for the Grand Jury to "rubber stamp" and generally using the Grand Jury to legitimize the dubious as well as the legitimate actions of the U.S. Attorney's Office.

For example, in July of 1985, the Pennsylvania State Treasurer through his attorney, asked to go before the Grand Jury under oath and explain the entire CTA matter under investigation as he knew it and answer any and all questions from the members of the Grand Jury. The Treasurer's request had to be made to the Acting Pennsylvania Middle District U.S. Attorney, James West, rather than the Foreman of the Grand Jury. As a statewide elected public official, the State Treasurer was a "big pelt". Acting U.S. Attorney West, of course, denied the request. Thus, the prosecutors the Grand Jury historically was to protect innocent citizens from, can prevent them from appearing before the Grand Jury. The U.S. Attorneys must be removed from their current personal "choir leader" relationship with Grand Juries as one aspect of creating a true system of Justice in the United States.

- II. Another reform for Federal Grand Juries would be to adopt the modification many other entities now use by permitting the witnesses' attorney to sit in the Grand Jury Room. The current practice of requiring the witness to leave the Grand Jury Room to consult his or her attorney in the hallway outside the Grand Jury Room is inefficient, time-consuming and leads to disjointed testimony and proceedings.

REFORM THE "JUSTICE" SYSTEM - ABOLISH FBI BONUSES (Bounties) and "Leaks"

One of the most shocking things revealed during the "CTA" investigation is that "old West style bounty hunting" was not totally abolished in the 1800's. It has resurfaced in the 1900's in the form of bonuses paid to the already well-paid FBI agents when their investigations lead to indictments and/or convictions. Indications are that the "bounties" vary according to the type of case -- whether a "big pelt" is involved, etc.

It is very difficult, if not impossible to obtain information regarding these payments, even of the most general type (such as the total amount paid the agents of a particular office over a 10-year period) even under the provisions of the Freedom of Information Act.

It's not surprising, since the publication of the "bounties" or bonus payments to FBI agents would create an uproar from the public who thinks the FBI seeks truth and justice rather than "big pelts" and bonuses.

- I. The recommendation is obvious. Abolish all bonus or "bounty" payments, rewards, awards or whatever to FBI agents other than their normal generous compensation. Until this happens, I suggest that the Federal Bureau of Investigation be renamed the Federal Bountyhunters Institute.

Another prevalent practice of some FBI agents is the "leaking" of secret Grand Jury material and investigative information. Practically anyone closely involved with the CTA case in Pennsylvania can identify the agents in the Harrisburg, Pennsylvania office of the FBI who are known to "leak" information.

During the CTA investigation one FBI agent was observed having lunch with a member of the press. That member of the press then wrote a series of articles that contained information about the investigation that was unknown to anyone else at that time.

On another occasion, a Treasury Department employee who had just appeared before the Grand Jury was looking for a bathroom. He rounded a corner in a hallway and discovered two FBI agents associated with the investigation talking with another member of the news media.

On yet another occasion my attorney held a meeting in Washington with Department of "Justice" officials, including one from the Harrisburg office. The meeting was confidential. A few days later press reports appeared in Pennsylvania giving details of the meeting.

- II. Any FBI agents or other "Justice" Department staff members who leak secret grand jury information or any investigative information should be fired and prosecuted.

## CITY &amp; REGION

# Dwyer Reported Trying To Forestall Indictment

By BOB GROTEVANT  
Daily News Staff Writer

HARRISBURG — The attorney for state Treasurer R. Budd Dwyer met with U.S. Justice Department officials last week in an effort to halt a possible indictment against Dwyer in the Computer Technology Associates Inc. bribery scandal, sources have told the Daily News.

Neither Harrisburg lawyer Paul J. Killion, Dwyer's defense attorney, nor acting U.S. Attorney James J. West, who is directing the CTA investigation, would confirm or deny the meeting occurred.

"It wouldn't make sense for me to talk about it, if it did occur," said Killion, a former federal and state prosecutor.

However, sources familiar with the CTA investigation said the meeting lasted several hours at Justice Department headquarters in Washington on Nov. 12.

One person who is close to the case but who refused to be quoted by name said Killion's action was not unprecedented, and that such direct high-level appeals in federal criminal cases are generally reserved for

"high-profile" cases.

Several "high-ranking" department officials attended the meeting, the sources said. Their identities could not be learned.

Sources said Killion urged that a federal grand jury investigation into Dwyer's handling of the CTA contract be dropped because of insufficient evidence to return an indictment against the treasurer.

Killion argued his client should not be indicted because the government had little or no testimony to support the allegations of John Torquato Jr., CTA's former owner and the confessed mastermind of the scheme, sources said.

Torquato, formerly of Johnstown, Pa., is one of five people who have pleaded guilty or been convicted of participating in a conspiracy to bribe high state officials, including Dwyer and Attorney General LeRoy S. Zimmerman, to win a contract worth \$4.8 million without benefit of competitive bidding.

Dwyer awarded the contract to CTA in May 1984, but canceled it two months later after learning the FBI was looking into bribery allegations.

## Dwyer lawyer requests end of jury probe

*Reading Eagle, 11/21/85*  
HARRISBURG (AP) — The lawyer for state Treasurer R. Budd Dwyer asked U.S. Justice Department officials to drop a grand jury investigation into his client's handling of a \$4.8 million contract, a published report said.

Dwyer's attorney Paul J. Killion met with acting U.S. Attorney James J. West and other "high ranking" department officials on Nov. 12 at Justice Department headquarters, the Philadelphia Daily News reported in its Wednesday editions.

Killion and West would neither confirm nor deny the meeting occurred, the newspaper said.

The newspaper quoted sources familiar with the Computer Technology Associates Inc. investigation as saying the meeting lasted several hours.

"It wouldn't make sense for me to talk about it, if it did occur," said Killion, a former federal and state prosecutor.

Killion urged that a federal grand jury investigation into Dwyer's handling of the CTA contract be dropped because of insufficient evidence to return an indictment, the newspaper reported.

The defense attorney said the government had little or no testimony to support the allegations of John Torquato Jr., CTA's former owner and the alleged mastermind of the scheme.

One person close to the bribery-conspiracy case said such direct high-level appeals in federal criminal cases are generally reserved for "high-profile" cases.

Five people, including Torquato, pleaded guilty or were convicted in the scheme to win government contracts for CTA through bribe offers.

Dwyer awarded a state contract to CTA in May 1984, but canceled it two months later after learning the FBI was investigating allegations of bribery.

The reforms are simple and obvious:

1. The U.S. Congress should enact a law providing that any prosecutor who abuses the true purpose of the plea bargain be dismissed from office and prosecuted for misconduct.
2. The U.S. Congress should enact a law providing that private perjury cases can be filed in a manner similar to other private criminal prosecutions.

# Prosecutor seeks parole for CTA's Torquato

By Al Donalson

The Pittsburgh Press

U.S. Attorney James West, who successfully prosecuted the case against John R. Torquato Jr., the "prime mover" in the Computer Technology Associates scandal, flew to California this week to try to persuade the U.S. Parole Commission to give Torquato an early release from prison, a federal court document shows.

West's appearance on behalf of Torquato was the subject of a motion filed this week by Harold Gondelman, attorney for former City Coun-

cil President Robert Rade Stone, a defendant in a CTA-related case in U.S. District Court.

"It is unusual conduct for Mr. West to fly to California at taxpayers' expense to appear on behalf of a prisoner at a parole hearing. I feel there are matters involved which defense counsel should explore," Gondelman said.

Torquato last year received a four-year sentence from U.S. Middle District Court Judge Malcolm Muir, who denied a request by West to give the defendant a two-year term.

Torquato, testifying under a plea bargain, was the star witness last

spring in the case that resulted in the conviction of William T. Smith, former Dauphin County Republican chairman, and Alan R. Stoneman, of Orange, Calif., attorneys for CTA.

Gondelman requested and received a court order from U.S. District Court Judge Glenn Mencer, who will hear Stone's case. The order directs the Parole Commission to give Gondelman all details of West's argument on behalf of Torquato.

West said he went to Boron Federal Prison in the Mojave Desert to tell of Torquato's "crucial" cooperation in the continuing investigation of the CTA bribery-kickback case.

Torquato, whom federal prosecutors called the "prime mover" in the case, pleaded guilty to one count of conspiracy.

In exchange for payoffs and kickbacks to local and state officials, CTA was awarded a multimillion-dollar, no-bid state contract in 1984 to recover Social Security overpayments. CTA received similar contracts with the city and the county.

Stone is accused of accepting a \$6,374.86 check from Torquato, who headed California-based CTA, in exchange for his help in getting CTA a \$150,000 contract with the city.

Stone, in denying any wrongdoing,

claimed the check was for private legal work for Torquato.

Torquato is scheduled to be the first witness in the trial against Stone, which is to begin Monday.

Gondelman said he did not know of West's trip to California on behalf of Torquato until this week, when he learned Stone's trial could not start as scheduled on Tuesday because Torquato that day was scheduled to appear at the parole hearing.

Gondelman said, "In all my years as an attorney, I've never seen such conduct by a prosecutor. I want to find out what it all means."



# The Patriot-News Co.

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*A Free Press — Armor of the Republic*

## Hold to the bargain

### Not a time to talk leniency with Torquato

AT ABOUT this time last year, John Torquato Jr. was singing his head off. His song was sweet music to the ears of federal prosecutors in Harrisburg, and it played a major part in convicting several others on bribery and conspiracy charges.

But for all that, was his testimony so powerful as to justify forgiveness of a prison term to which Torquato had already agreed as part of a plea-bargaining agreement?

Acting U.S. Attorney James West thinks so, and he recently traveled to California seeking Torquato's early release from Boron Federal Prison. Torquato is completing the first year of a four-year prison sentence for conspiracy to bribe Pennsylvania state officials to direct contracts to his firm, Computer Technology Associates, also known as CTA.

West feels Torquato's "services" during the trial merit his early release from prison. As a condition of the plea-bargaining agreement which secured Torquato's testimony, West made known to the court the fact that Torquato had cooperated with the authorities and was willing to offer valuable testimony in return for leniency. Very well, U.S. Middle District Senior Judge Malcolm Muir said in effect, four years.

WE BELIEVE Torquato already has gotten as much leniency as he deserves. He was

the mastermind of the now-infamous CTA scheme, and it was he who stood to reap the most ill-gotten gains from it. Certainly, his testimony succeeded in convicting Paxtang lawyer William T. Smith, who was sentenced to 12 years, and California lawyer Alan R. Stoneman of related charges, but these men were mere players in the CTA game; Torquato was the man calling the shots.

Furthermore, no threats or promises were made to Torquato in return for his testimony. Had he not been willing to abide by the court's discretion in the plea-bargain, he should have entered a plea of innocent or held out for something better.

It also must be remembered that the CTA scandal has not yet fully unfolded. Torquato is testifying again in the trial of a former Pittsburgh City Council president charged with taking a bribe in return for easing the way for CTA to do business with that city. If Torquato succeeds in getting an early discharge from the Harrisburg sentence, what "incentive" is left for him to finish the job in Pittsburgh?

Torquato was sentenced to four years, and he should serve four years, conditional on terms of parole and good behavior. To extend to him an undeserved bouquet would further undermine a justice system already strained by the generosity of the plea-bargaining process.



Commonwealth of Pennsylvania  
Office of the State Treasurer  
Harrisburg

17120

R. BUDD DWYER  
TREASURER OF PENNSYLVANIA

January 22, 1987-- Press Statement by State Treasurer R. Budd Dwyer

At long last I can speak out. I wanted to do this during the early stages of the CTA matter but I was told by advisers and attorneys to wait until the investigation was over. Then I was indicted and again wanted to speak out and was advised to wait until I was acquitted. But our legal system was orchestrated so that it did not work in my case and now more than ever my conscience dictates that I must speak out.

Much of what I will say about certain persons and our legal system is not pleasant but it is all true, based on my own knowledge, based on official records or on what people I know and trust have told me. Much of what I say will be answered by howls of denial and derision but I urge you to look behind those howls to check out the validity of my statements.

I apologize for the typing and punctuation and if my remarks seem disjointed it is because of time and logistics, I can cover only a few of the thousands of things I would like to say.

First, I want to thank my loving family, my loyal friends, supporters and employees and all those who have stood by me during this terrible 2½ year ordeal. I thank them for their support, their encouragement and their prayers. I have not let them <sup>down</sup> or violated my oath of office. Our current legal system has let me down and cries out for reform so that other innocent people do not have to go through what my family and I have been through and will go through for the rest of their lives. I hope and pray that after this press briefing is concluded you'll want to help create a Justice System here in the United States.

The past 2½ years have been like a nightmare or life in one's own twilight zone for my family and me. Even now, as I'm speaking to you, it would not surprise me to wake up at home in my bed and learn that the entire matter was just a horrible nightmare,

and really didn't happen.

I'm very proud of the job I've done during my six years as Treasurer of Pennsylvania. It is ironic that although my staff and I have transformed the ~~Department~~ from a financial antique into one of the most modern in the nation, earning and saving hundreds of millions of dollars each year, most of the publicity we've received and what I'll be remembered for is in regard to CTA.

I once again declare to you that I am totally innocent. I have served in public office for over 22 years and it is my observation that nearly all public officials are honest, sincere and trustworthy. I state with pride and a clear conscience that I am one of the most honest public officials to ever hold office in this Commonwealth. I invite you, challenge you and beg you to talk with my Treasury Department employees, the commercial bankers and investment bankers with whom we do business, my former colleagues from both parties in the House of Representatives and the Senate and their staff, members of the Harrisburg lobby corps since I've been in politics, my high school, college and law school classmates and professors, my former constituents in Crawford, Mercer and eastern Erie counties or anyone else who knows me. Ask them about my honesty and integrity.

If anyone thinks I would jeopardize my good name and reputation, damage my family and risk all we've worked for and stood for over the years for \$300,000,000, let alone \$300,000,000,000 or \$100,000,000 they are crazy. I started my professional career as a school teacher but a significant event occurred in my life in 1963 when I was selected as western Crawford County's Community Ambassador to Poland. Living under a Communist government made me realize for the first time the full extent of the freedoms and opportunities we have here in the United States. I resolved that I would work to preserve and improve our system and that is why I entered politics in 1964 and have spent the last 22 years fulfilling my resolve.

My wife and I have never aspired to be wealthy. We only wanted to do meaningful and enjoyable work, serve our fellow man and provide a secure lifestyle for our children. I've had many



opportunities to make big money in the private sector or run for higher paying Federal office and I've turned them all down be-CAUSE I enjoyed my work in State Government.

On January 20, 1986 I proudly took my oath of office as Pennsylvanias' 69th State Treasurer and in my first remarks as Treasurer, entitled "Only in America", I joyfully marveled that only in America could a kid from Blooming Valley with no political legacy and no political base be elected to statewide office in this Commonwealth of almost 12 million people. Now, six years and two days later, the joy has turned to pain and sorrow and the marvel to disillusionment and disgust.

I was able to be elected Treasurer because the political system that was our forefathers goal 210 years ago has developed and matured and continues to improve with virtually every election as a wider cross section of society is elected to public offices. For example when I was first elected in 1964 there was only one other member of The General Assembly in his twenties and only one member of the Senate in his thirties.

But I am here in this situation today because the Justice System that was also our forefathers goal has eluded development during the past 210 years and the citizens of the United States have, instead of a justice system, a legal system that is very similiar to the legal systems in nations around the world that our national leaders are fond of criticizing for denying human rights, legal process and justice.

I stand before you today as an absolute example that in 1987 in the United States of America our legal system can be used for political persecution and that innocent people are found guilty. Words do not exist to express the feeling of disbelief, shock, numbness, illness, dismay and sadness for my family and me when the Judge read the first "guilty". No one could possibly imagine that feeling except other innocent persons who have been convicted of crimes they did not commit. That moment, and the days that follow as friends and family make calls, send notes or come to visit to express disbelief and sympathy is as close as one can come to dying and attending their own funeral. In my case, it was not only the destruction of my life but the destruction of every-

thing I believed, and taught my students and family about regarding this country. I had been very naive. I had been raised to believe that if I obeyed the law and was a good citizen that I would never become entangled with our legal system.

Then in February of 1984, another significant event occurred in my life. In conformity with Pennsylvania law, I refused to pay the travel voucher for Mrs. Dick Thornburghs' trip to Europe and Governor Thornburgh told Bob Asher and others that he would "get Dwyer". Thanks to you, the media, Governor Thornburgh has a very positive image but if his staff had ever let you get close to him you would have found a short temper and a vicious, vindictive personality. Governor Thornburghs' resolve to get me increased when "Ginnygate" was followed by "Chauffergate" in March, April and May of 1984 which was properly brought to my attention by reporter Wally Roche of the Philadelphia Inquirer. Then our recent Governor began referring to me as "The Fat F\_\_k", which can be attested to by several people.

Some of you may recall that Governor Thornburghs' first attempt to get me was a misleading memo from Secretary of Revenue Scheiner to Secretary of Administration Dickman in late April of 1984 criticizing my departments' short term investment of the State Employees Retirement System funds, which was leaked to the media in "white envelopes". When that backfired, the second attempt was the so-called "Bittenbender letter" sent to me on May 24, 1984, seven weeks after the FICA Recovery legislation was signed into law and two weeks after the contract was signed. The letter contained distorted financial information, which was brought out at the trial and copies of that letter were also given to favored members of the Capitol Press Corps. And then the CTA investigation by the U.S. Attorney fell into their laps and ~~and~~ they had the vehicle, that if steered skillfully would really "get me". As a Thornburgh friend and Cabinet member said to his, then, Press Secretary, "...the Fat F\_\_k is going to get it now."

My major criticism of you and your colleagues in the Pennsylvania news media in regard to CTA, has been your failure through fear, intimidation or perhaps one of the reasons discussed in the chapter entitled "Journalists for the Prosecution" in the book,

The News At Any Cost, to expose the close connection between Governor Thornburgh and Acting U.S. Attorney James "Jimmy" West. It is a matter of public record ~~that~~ West's first job after his judicial clerkship was to be hired by then U.S. Attorney Dick Thornburgh as an Assistant U.S. Attorney in the Western District of Pennsylvania in August of 1974. It is also public information that West's second job was to be hired by then Governor Thornburgh as a Pennsylvania Deputy Attorney General on April 2, 1975.

Then after President Reagan took office in 1981, the Thornburgh group tried to take over the U.S. Attorneys office for the Middle District of Pennsylvania by having another two time Thornburgh appointee, Henry Barr, appointed as U.S. Attorney. However, Barr was not recommended by the Merit Selection Committee and David Dart Queen was nominated and confirmed as the U.S. Attorney.

But Assistant U.S. Attorneys do not have to go through the Merit Selection Committee Process and in July of 1982 the Thornburgh group succeeded in having none other than James "Jimmy" West named First Assistant U.S. Attorney for the Middle District of Pennsylvania with his office right across Capitol Park from Governor Thornburgh's office.

It was well known in campaign circles in the fall of 1984 that Governor Thornburgh and his top staff members were ~~trying~~ trying to have U.S. Attorney Queens' announcement of the first CTA indictments delayed until after the November 6, 1984 General Election. They knew, through West, that Zimmermans name would be prominently mentioned in the indictment for the first time. They were afraid a pre-election announcement would cause Zimmermans' defeat and that Allen Ertel as Attorney General would conduct an investigation of the Thornburgh Administrations' sweetheart, no-bid legal contracts. Queen went ahead with his announcement on October 23, 1984 and Zimmerman almost lost the election. The effort to remove Queen as U.S. Attorney began immediately because he could not be controlled. After a heavy political battle Queen was "promoted" to a position in the U.S. Treasury Department. It was not the Solicitors position which he had sought. When Queen departed for Washington in January of 1985, James "Jimmy" West

was named as the Acting U.S. Attorney by a 4-2 vote of the Federal Judges in the Middle District and Governor <sup>THORNBURGH</sup> had his lackey in charge of the CTA investigation and as we now know, my fate was sealed.

Those of you who are politically astute are questioning me at this point because, while you realize why Dick Thornburgh wanted me indicted and convicted, why would he want his friend and 1982 campaign chairman, Bob Asher, to suffer the same fate. The answer is that Bob Asher had also crossed Dick Thornburgh. In late 1983 and 1984 Thornburgh and some of his top staff, including Bob Asher, who by then was the Chairman of the Republican State Committee, to use Republican State Committee funds for them to travel around the country promoting Thornburgh for a spot on the 1988 Republican National ticket. Asher got independent and refused. Thornburgh responded by removing the Governors Club from the auspices of State Committee in order to raise his own funds. Bob Asher immediately replaced it with the new Commonwealth Club and used the Governors Club mailing list for it, thus partially foiling the Governors' effort to raise his own funds.

Another Thornburgh-Asher battle occurred in the fall of 1984 when, as I've already indicated, Thornburgh and his cronies were panicked at the prospect of Allen Firtel being elected Attorney General. On the night of October 4, 1984, at a private meeting following the State Committee Fund Raiser honoring Drew Lewis at the Bellvue Stratford in Philadelphia, Governor Thornburgh and some of his key staff members and cronies, with some party leaders present, demanded that Bob Asher lay off most of the 25 or more staff members at Republican State Committee and give the money saved in payroll costs to the Roy Zimmerman campaign. They also wanted Asher to use the remainder of the money that had been budgeted for the three statewide campaigns used exclusively for Roy Zimmermans' campaign. Asher refused both requests.

Thornburgh and his cronies mended their split with Asher briefly in the fall of 1985 when they used Asher to help them in their efforts to make Thornburgh a viable candidate against Senator Specter. When that effort failed they broke away from

Asher again. (Incidentally, one of the major unpublished reasons Thornburgh did not run against Specter is that Thornburghs' key staffer was told by Specters key staffer that if Thornburgh ran, his role in the CTA affair would be a major issue in the campaign.) You now know, in case you've ever wondered, why, out of all the politicians names on Torquatos' spread sheets and other records and all the testimony about bribes, gifts, favors and contributions to politicians from Smith and Torquato, the only two politicians to be indicted and found guilty are Budd: Dwyer and Bob Asher.

The position of U.S. Attorney, even on an "Acting" basis, is one of the most powerful in our government. The U.S. Attorney is the sole determiner of what cases will be pursued and what cases will be dropped in his district. The quality of the "Justice" system in each of the 94 Federal Districts depends upon, the honesty, objectivity, integrity and personal goals and interests the U.S. Attorney in each district. U.S. Attorneys love to selfrighteously proclaim that they will "follow the evidence wherever it leads". The fact is that it is the exact opposite that usually occurs. The U.S. Attorney and the involved law enforcement agents will determine early in a case who they want their "targets" to be, and then develop or fabricate evidence to indict and convict them.

If evidence can't be developed it is fabricated by using the currently legal techniques of lies, deals, leaks, threats, immunity, harrassment, rumors, abusing the plea bargain process and virtually every other technique used in authoritarian nations with the possible exception of physical torture. Another technique is to stretch out an investigation so long that legal fees financially bankrupt their "target" or mentally break the "target" or family members so that he has no alternative but to plead guilty to something and perhaps provide perjured testimony against other "targets". With unlimited taxpayer dollars and virtually unbridled power, is it any wonder that the U.S. Department of "Justice" boasts a 95% conviction rate. Once the U.S. Attorney decides, regardless of his motivations, who his "target" will be, the odds are overwhelming that the prosecution will "get" him,

one way or the other, whether they are guilty or not. Of course, the appropriate <sup>ACTION</sup> for West to have done, as I've described in Attachment 1 of my letter to the Judiciary Committees, would have been to recuse himself from the CTA investigation, but their goal had been just the opposite, to seize control of the investigation.

The entire CTA case as it applies to me, hinges on one meeting in March of 1984 with Bill Smith about which he has told two versions, one truthful and the other in exchange for immunity for his wife and other considerations for himself. Following is Bill Smith's truthful story of what really happened, as he told it to my attorney, Bob Ashers' attorney and Tom Carroll who is one of Smiths' attorneys, on March 12, 1985. My attorney immediately taped the information provided by Smith and it was transcribed into a 5 <sup>PAGE</sup> memo the following day. Since the memo is the property of my attorney and contains other information I regret that I cannot provide you with copies of it but I can relate to you the crucial information it contains in regard to me and Smiths' meeting with me in March of 1984.

Smith explained to the attorneys that it was constantly Torquatos' mindset to offer money to people in order to incur an obligation. As Smith testified at our trial, Torquato was very upset that a bribe was not offered to me at the March 2, 1984 meeting at the Marriott. Torquato kept pressuring Smith to meet with me again and offer a bribe in exchange for the contract. Smith did meet with me sometime later in March but did not offer any bribes. Smith told the attorneys that at no time did he raise the possibility of offering money to <sup>ME</sup> because he knew it would be inappropriate and that I would have thrown him out of my office. (He testified at our trial that all along he felt CTA was good enough to get the contract without offering bribes.) However, after our meeting Smith led Torquato to believe that he had bribed me so that Torquato would stop pressuring him. Thus, when Torquato entered my "code name" on his spread sheets and boasted to various people about campaign contributions to me, he really thought that Smith had bribed me and of course Smith continued to let Torquato think that I had been bribed.

It is no wonder that Testimony indicates that Torquato was perplexed, frustrated and furious when my Task Force wanted to do

the project in-house, when I had them contact the Pennsylvania School Boards Association to see if they could do the project, and when they were in the process of recommending to me that Arthur Young do the project before Torquatos' last minute effort to get Dave Herbert to provide false information to the Task Force regarding immediate credit which impacted so heavily on the all-important time-value-of-money concept which resulted in the Task Force recommendation to me that CTA be awarded the project.

Smith admitted this at our trial but apparently it went by the jury. His attorney, John Rogers Carroll testified at our trial that Bill Smith had "solemnly" told he and Tom Carroll that he had lied in his "offers of proof" and that when he testified at his own trial that he had not bribed me it was the truth. And John Rogers Carroll added, "We had no evidence to the contrary." (Some observers think that Smith and Torquato were creating phony records and making statements about several hundred thousand dollars in payoffs just as Torquato had successfully done in regard to the Allegheny County contract when he made statements and created phony records indicating he was paying \$102,000 in bribes to Allegheny County officials so he wouldn't have to pay his employees commissions on that amount. In reality he was misleading his employees, paid no bribes and put the \$102,000 in a Swiss Bank account as he has admitted. However, I think the foregoing Smith version is the accurate scheme in the fall of 1984.

Thus, although Smith never bribed me you can see how Smiths telling Torquato that he had bribed me, unforeseeably, benefited both of them in their "offers of proof" in the fall of 1984 and especially benefited Smith in his final "deal" with Acting U.S. <sup>Attorney</sup> West in the fall of 1985.

When the CTA investigation began in July of 1984 both Smith and Torquato knew they had legal problems for bribing Dave Herbert to provide false and incomplete information to my FICA Recovery Task Force. Smith knew from his limited criminal law practice and Torquato learned from his attorney (according to their Testimony) that U.S. Attorneys and FBI agents are interested in big pelts.

And there I was, cut on the end of the limb with my signature on a large, complex contract that I had signed in good faith based on the recommendation of my task force. In turn, the task force had made the recommendation to me in good faith. They did

not know that John Torquato had lied directly to John Wellington regarding cost figures or that Smith and Torquato had bribed Herbert to lie to Wellington and Phenecie regarding immediate credit which impacted on the time value of money. But I was a "Big Felt", Governor Thornburgh was out to "get" me and his lackey, James West was heading up the CTA investigation.

Moreover, Torquato really thought Smith had bribed me and had his spread sheets to prove it. Smith could slightly alter the true story of our March meeting and say he bribed me, since he had told Torquato that he had. Thus it was easy for them to separately fabricate "offers of proof" even though the details conflicted. West ignored that fact and had his bottom line desire of having two people say I'd been bribed, despite all the evidence to the contrary.

According to the search warrant for Torquatos' office, he had more legal exposure than Smith so he was willing to plead guilty to one count while Smith wanted complete immunity in exchange for his story. Thus Torquato got the initial deal. Bill Smith was slick though. He not only went to two attorneys with his "offer of proof" but I understand he also told at least one member of the Capitol Press Corps in the event his trial went badly and he needed additional prior verification of his story to work out a future deal.

Although I'd done nothing wrong I knew the deck had been stacked against me. Still I had faith, that since this is America, something would occur to save me from my persecutors. But it didn't happen and this is why our legal system desperately needs to be reformed into a justice system. It has happened to others and will happen to more innocent people until reforms are enacted. In fact the recent January 11, 1987 "Sixty Minutes" program described the case of an innocent man in Philadelphia who had been convicted and sentenced to death. How many more will there be?

In the following paragraphs I'll detail some of the things that occurred to fabricate testimony against me and otherwise manipulate the case against me. Please verify these yourselves and decide whether Acting U.S. Attorney James West was seeking truth and justice or seeking the indictment and conviction of an innocent person.



1. The accuracy of polygraphs or lie detectors is a hotly debated issue. However the U.S. "Justice" Department relies heavily on lie detectors in their investigations and maintains they are very accurate. On about July 22, 1985 my attorney asked James West to sign a letter stating that if I passed their lie detector test he would drop me as a "target" of his investigation. Acting U.S. Attorney James West refused to enter into the agreement.

2. Grand Jurys were formed hundreds of years ago as a reform to protect innocent citizens from unethical and overreaching prosecutors. In August of 1985, my attorney asked Acting U.S. Attorney James West if I could voluntarily appear before the Grand Jury to explain the entire CTA matter to them as I understood it and answer any and all questions they had. West refused saying he wouldn't permit me to make a "speech" to the Grand Jury. Thus our legal system has deteriorated to the extent that the very prosecutor who the Grand Jury is to protect citizens from, can in fact deny those citizens access to the Grand Jury. ( See insert 4 regarding Grand Jury reforms in my letter to the Congressional Judiciary Committees.)

3. Abuse of process. On November 27, 1984, a Treasury Department employee was subpoenaed to appear before the Grand Jury at the Harrisburg Federal Building. When he arrived the Grand Jury was not even in session that day. The subpoena had been a ruse to get him to the building so West and FBI agent Don Jordan could have a session with him. They proceeded to make accusations and threats in an effort <sup>TO HAVE HIM</sup> ~~into~~ confirming false information. They goofed when they indicated ~~they indicated~~ they had evidence that Bill Smith had offered to pay off his mortgage if he helped them get the FICA recovery contract, because the Treasury Department <sup>employee</sup> ~~was~~ a renter and had never had a mortgage. He returned to the Treasury Department pale and physically ill as several Treasury Department staff members can attest.

4. Leaks of Confidential Information. On Monday, July 30, 1984 FBI Agent Ronald Brinkley had a luncheon meeting at Casa Rillos with a member of the Capitol Press Corps. A few days later the reporter wrote a series of articles containing previously unknown information about the CTA investigation.

On October 29, 1985, <sup>A TREASURY EMPLOYEE</sup> ~~was~~ subpoenaed before the Grand Jury. When he left the Grand Jury he looked for a bathroom. He rounded a

corner and there were FBI Agents Ronald Brinkley and Donald Jordan talking with a Capitol Press Corps reporter about the case,

On November 12, 1985 my attorney had a confidential, private, meeting in Washington D.C. with Acting U.S. Attorney James West and Washington based "Justice" Department personnel. Reports of the confidential, private meeting were carried in the Pennsylvania media on November 20 and 21, including information about the meeting that occurred after my attorney had left.

Neither Bob Asher, I or our attorneys had any indication we were going to be indicted prior to May 13, 1986. I learned about it as a result of a telephone call from my Pittsburgh office that morning reporting that an article in the Greensburg Tribune Review indicated we were going to be indicted.

In The News at Any Cost the author states, " In most jurisdictions it is a crime for a prosecutor to leak grand jury information, but no one has ever been prosecuted for it since it would require prosecutors to investigate themselves."

5. The three way split. At our trial, Acting U.S. Attorney James West came up with a new theory that the mythical \$300,000 payment was going to Republican State Committee where it was to be divided equally between the campaigns of Roy Zimmermen, Sue Shanaman and me. Please check with Roy Zimmerman and Sue Shanaman to see if West ever checked with them to see if Bob Asher or I ever told them that they should add an extra \$100,000 into their campaign budgets.

6. The Torquato-Ellis "plea bargains". John Torquato and Judy Ellis were each indicted on 15 counts with an exposure of 80 years in jail and \$106,000 in fines plus two of their corporations were indicted on 15 counts with an additional exposure of \$106,000 each. As a result of Torquatos' plea bargain West recommended a 2 year sentence but the Judge sentenced Torquato to 4 years and a \$10,000 fine which still saved Torquato up to 76 years in jail and \$96,000 in fines. His livein girlfriend-partner Ellis was sentenced to 1 MONTH and a \$5000 fine, saving her up to 79 years and 11 months in jail and \$101,000 in fines. But Acting U.S. Attorney James West was not finished with his favors to Torquato and Ellis. Just before the Smith-Stoneman trial, in which they were to be witnesses, West dropped all charges against their two corporations saving Torquato and Ellis another \$212,000 in fines despite the fact that

they had at least \$450,000 in Swiss bank accounts.

7. Acting U.S. Attorney James West's trip to the Boron Prison Camp. West and Torquato were upset that Torquato had been sentenced to 4 years instead of the 2 years West had recommended. In February, 1985, West attempted to secretly go to the Boron Prison Camp in California where Torquato was located to put in a good word with Torquato's parole board. Pittsburgh Attorney Harold Gendelman found out about West's trip, as he said, through "dumb luck." West's trip was a success and he got Torquato's sentence reduced from 4 years to 22 months. Please check out what West did for Torquato with other criminal attorneys. It's virtually unheard of! Normally when a prosecutor appears before a parole board it is to urge that a felon serve their full term.

8. The Bill Smith deal. This deal sets new records in the annals of our "Justice" Department. After his sentencing, Bill Smith had legal bills of over \$200,000, a fine of \$60,000 and a jail sentence of 12 years. Acting U.S. Attorney James West told Smith's attorney that Smith's wife, who is also his law partner, would be indicted unless Smith "cooperated". Smith's wife is the mother of their 5 year old son and the step-mother of other Smith children. Smith is not a G. Gordon Liddy and faced with all of the foregoing he "cooperated" in exchange for immunity for his wife and himself, a recommendation from West that his sentence be reduced to 22 months and a \$10,000 fine and if the judge doesn't agree, West will appear before Smith's parole board to have his sentence reduced. That wasn't even a plea bargain. It was just an outrageous deal that is legal under our current "Justice" system. Smith's sobbing statement on the witness stand, "I'd do anything to protect my wife.", and his near fatal heart attack and emergency surgery a few hours after he testified, <sup>justify</sup> the weight of his guilty conscience better than anything you've seen on stage, in the movies or in a TV Soap Opera.

9. The Williamsport trial. One of the most frequently asked questions before and during our trial was, "Why is the trial up in Williamsport?" The answer is, "Because Acting U.S. Attorney James West wanted it in Williamsport, to help guarantee he could convict us."

In addition to evidence obtained one way or the other, there are two other ingredients a prosecutor needs for a guaranteed conviction. One is a "house judge" and the other is a favorable jury. Both exist in Williamsport. As one attorney familiar with the situation stated, "Judge Muir gives new meaning to the term, house judge." Judge Muir is clever though. A casual observer attending a trial or reading a transcript wouldn't perceive ~~perceive~~ his pro-prosecution or personal bias, but a trained legal <sup>MIND</sup> would realize that whenever a motion or ruling was crucial to the prosecution, such as our change of venue motion, Judge Muir invariably rules for the prosecution. In our case he sent subtle messages to the jury to convict us, such as referring to the "record for the Appellate Court".

A few weeks before the beginning of our trial Judge Muir's pro prosecution and personal bias resulted in the overturning of a guilty verdict in the Salamone Case by the Third U.S. Circuit Court of Appeals. The ruling has been publicized in national publications such as the January 1987 issue of the American Hunter.

Our case was complex and technical and Acting U.S. Attorney WEST needed an unsophisticated, uneducated jury pool and demographics indicate that the Williamsport Federal jury pool is the most uneducated in the state. Even so, West used several pre-emptory challenges to eliminate educated people from the jury. There were two college educated jurors, one music major, and the other a psychologist who West had originally knocked off but who he permitted to serve after the defense and news media complained about his tactics.

Logic and a U.S. Supreme Court decision indicate that the trial should have been held in Harrisburg. The alleged offenses occurred in Harrisburg, West's office and the FBI office is in Harrisburg, the defense attorneys offices were in Harrisburg, the defendants offices were in Harrisburg, most of the witnesses were from Harrisburg and those that weren't had to be transported to Williamsport after flying to Harrisburg. It cost the taxpayers tens of thousands of dollars more to have the trial in Williamsport but of course Acting U.S. Attorney James West wanted us convicted regardless of the cost or tactics it required.

If you check the defense motion to change venue to Harrisburg, which was opposed by West, I met all seven points of a U.S. Supreme Court decision that a Judge is to consider in making his ruling. The seven points don't include Judge Muirs' convenience or his bias toward the prosecutions' opposition to our motion so he ruled the trial must be held in Williamsport. His official reason in his ruling was that there weren't enough courtrooms in Harrisburg despite the fact that with the state appellate courts, the county courts and the Federal courts in Harrisburg there are more courtrooms there than anywhere else in Pennsylvania except Pittsburgh and Philadelphia. (as an aside, check into the Berrigan trial of the 1970s. The Federal government had jurisdiction in dozens of Federal District Courts around the country but the trial was held in Harrisburg because computer runs indicated the Middle District of Pennsylvania has one of the most conservative, pro-prosecution jury pools in the country)

10. Rules of evidence: The jury received frequent messages to convict us because time after time during the trial Acting U.S. Attorney James West presented evidence or asked questions of witnesses about the CTA convictions of Smith and Stoneman and Torquato and others who were guilty of conspiring to bribe Herbert to mislead the Treasury Department Task Force. But whenever the defense planned to introduce evidence or call witnesses to testify about the acquittal of Pittsburgh City Councilman Robert Rade Stone in the other CTA trial Judge Muir ruled that Supreme Court case law prohibited the introduction of evidence of prior acquittals. The unfairness and injustice of that pro-prosecution decision is obvious.

Prior to the trial several attorneys said that it was impossible for a public official to get a fair trial in Pennsylvania because people are so biased against politicians. However, the acquittal of Pittsburgh Councilman Robert Rade Stone in the other CTA trial indicates that when a U.S. Attorney seeks truth and justice rather than convictions, when the Judge is unbiased and when the jury is composed of a defendants peers from the defendants home area, even a public official can receive a fair trial.

In our case the Acting U.S. Attorney, James West, went to the very limits of our very dubious laws to fabricate evidence and manipulated the trial arrangements so that he would have a biased "House Judge" and a jury that was not familiar with accounting practices, state-of-the-art investment techniques, the value of computer software and the political and governmental processes, in other words, a jury that was not composed of our peers.

According to articles in the news media the jury did not abide by their oath of office or follow the judges' most basic instruction, that all defendants are presumed to be innocent. Jurors were quoted as saying that they tried very hard to find me innocent, indicating they deliberated with a presumption of guilt, rather than the most basic principle of American jurisprudence, the presumption of innocence.

On the third day of deliberations the jurors asked for a transcript of John Wellingtons testimony. John Wellington, as the Treasury Departments Chief Counsel was the head of the Task Force that recommended CTA to me and was certainly the key witness as far as my case was concerned. The jurors were told that a transcript was not available but arrangements could be made to read Wellingtons' testimony to them. The jury never responded to the opportunity to have the testimony read to them or made any other request. They simply proceeded to find me guilty that very day. Perhaps they were in a hurry to get out for Christmas.

The Judge had given almost three hours of complicated jury instructions but the jury did not ask one clarifying question. They merely rubber stamped all 11 counts against both Bob Asher and me. Contrast our jury with the jury in the Smith-Stoneman trial which involved 15 counts each. Even though that jury was also a Williamsport jury, they asked many questions and found guilt by Stoneman on one count and guilt by Smith on nine of the 15 counts. Perhaps the attorneys were right and our jury was biased against us because we were politicians.

Regardless of their reason, our jury made a horrible mistake. They destroyed my 22 year career in public service and my life, and did indescribable damage to my family and many others .

The jury delivered the final blow to what many have described as the greatest miscarriage of justice they have ever known.

Many people who have visited, called or written to me since December 18, 1986 are confident that the horrible mistake made by the jury will be corrected by the appeals process. This is implied in the attached editorial from the Meadville Tribune. Unfortunately, most people, including me up to a few weeks ago, do not understand the appeals process. People generally think all mistakes regarding a trial are appealable but in fact only mistakes of law are appealable. In my case the major mistake was made by the jury which rendered a guilty verdict without having sufficient evidence beyond a reasonable doubt. Despite all their wheeling and dealing, the prosecution's case appeared to be so weak, so questionable and so contradictory that my attorney and many courtroom observers saw no reason to put in any defense.

Unfortunately, under our system of law, the jury's mistakes are not appealable. As impossible as it is to believe, <sup>there is no recourse</sup> from the mistakes of a jury. Only the mistakes of law made by the prosecutor and judge are appealable and as I've already described to you our statutory law, <sup>no</sup> case law is currently so loose and so unjust that my chances of winning on appeal are very slim and even if I won I could not financially afford another trial.

Bob Asher stands a better chance of winning on appeal because some case law indicates he was improperly tried as a public official.

The bottom line is that Governor Thornburgh, Acting U.S. Attorney James West, FBI Agents Donald Jordan and Ronald Brinkley, who "worked" the case, Judge Malcolm Muir and the jury have together totally discredited the American legal system in the hearts and minds of thousands of people who know that I am innocent.

Very few victims of our criminal legal system speak out publically against it because when a person has been found guilty they are at the mercy of the system. The prosecutor recommends their sentence, the trial judge imposes their sentence and fine and then they enter the custody of the Bureau of Prisons where there is a wide variation in treatment and conditions. After serving at least one-third of their sentence they are at the mercy

of the Parole Board for an early release. A person who makes waves will receive a longer sentence, higher fine, rougher treatment while imprisoned and stand less chance of being paroled. I've even been advised by people familiar with the "system" that I now ought to say I did something wrong so things will be easier for me from here on out. Obviously, I refuse to compromise my principles.

When you realize that only 5% of our population becomes entangled with our criminal legal system and that 95% of those are found guilty, it means that less than 1% of our population is ever acquitted. Those statistics alone demonstrate the sham of the system. The 1% of 1% is a tiny voice and only a few of them speak out, such as John DeLoe and Governor Edwin Edwards, and they are so few and so tainted that no one pays any attention and the atrocities go on and on.

Generally most people and specifically most elected officials do not like dealing with unpopular or unpleasant issues. They prefer to ignore problems that need to be addressed unless public pressure demands a solution. Then, like water, they take the course of least resistance. I regret that at many times during my legislative career I was an example of, rather than an exception to, that principle. Of course if I had followed that principle as Treasurer and paid Ginny Thornburghs European travel voucher and let the State Police continue to haul the Thornburgh graduate student to Massachusetts and the Thornburgh prep school student to Connecticut we wouldn't be here today. What has happened to me is an example of an unconscionable issue that most people would rather ignore than address. But fortunately there are exceptions in the private and public sectors.

I realize that you are news reporters and that I am just another piece of meat to you. But I hope that something that I've revealed today penetrates through the cynicism and callousness that is the stereotype of your profession and that some of you will help because it is the media that creates the public pressure to address the unpopular issues.



Many of you represent large media corporations such as the Philadelphia papers, the Pittsburgh papers, and Group A radio and television. Your employers possess the resources to carry on national crusades for reform. It is too late for me but certainly the current low level of our American legal system is ripe for their immediate attention. It is not as sexy or as exciting as the Iranian arms deal but it is long term and more important to the American people and the survival of our form of government.

I would also urge you and your media employers to work for the repeal of the death penalty unless the test would be absolutely no doubt. I regret that on several occasions when I was a member of the legislature that I voted for the death penalty. As a result of what has happened to me in this case I am convinced that innocent people have been found guilty and have been executed. The Neil Ferber case that was discussed on 60 Minutes on Jan. 11, 1987 is proof that it can happen right here in Pennsylvania.

Around the turn of the century the muckraking journalist Lincoln Steffens authored the book, The Shame of the Cities. His book was largely responsible for much needed improvement in the living conditions and working conditions of the slum dwellers in America's cities.

Lincoln Steffens' journalistic goal was "... to see if the shameful facts, spread out in all their shame, would not burn through our civic shamelessness and set fire to American pride."

Perhaps what America needs most now is another Lincoln Steffens, an author who will write a best selling book entitled, "THE SHAME OF OUR LAW".

As my political career draws to a close I want to thank the people who made it possible, beginning with the good people of Crawford County who in 1964, had the faith to elect a 24 year old as the youngest member of the General Assembly. And then the people of Crawford, Mercer and Eastern Erie counties who in 1970, elected me to the State Senate. Thanks to the voters of Pennsylvania who elected me Treasurer in 1980 and in 1984 saw through the sham of the CTA allegations and re-elected me by a margin of 310,000 votes. In all I have participated successfully in 8 Primary elections, 2

(Contact Duke Hershook or Gregg Penny at the Treasury Press office for the last page, Dwyer Treasury accomplishments etc. 717-757-2991.

# The Meadville Tribune

Monday, Dec. 29, 1986

## The Dwyer Matter

When state Treasurer R. Budd Dwyer was indicted early this year for his alleged role in the Computer Technology Associates bribery scandal, the Tribune supported his decision not to step aside as treasurer.

With his conviction in the case, however, he did the proper thing in immediately turning over the office operation to Deputy Treasurer Donald Johnson. In so doing, he'll have no part in the department's functioning and no contact with the office, the acting treasurer or department personnel. He also had given up his salary.

While he hasn't formally resigned, pending the outcome of his right of appeal, for all intents and purposes that's the exact result of his decision to step aside. At this point, we have no strong feelings either way about whether he makes it formal.

We, like many of Dwyer's friends here, want in every way to believe him when he maintains: "I have done nothing wrong. I did not let the people down. The system let me down."

Dwyer maintains his innocence. His record, reputation and often demonstrated integrity are persuasive factors especially as they contrast the testimony of convicted felons against him.

This case points up how important the appeals process is

within our system of justice. Even laymen untrained in legal matters could see in certain proceedings the grounds for appeal.

-The jury at one point asked for a re-reading of one witness's testimony. But the judge discouraged this re-reading by saying it could take up to three days to complete. Such expedience does not serve justice, as the appeals court well may rule.

-The jury was not sequestered and thus was exposed to any and all accounts of the case and its background. That the jurors may have been influenced is moot, but certainly the chance existed.

Throughout the entire matter, we've been troubled by Dwyer's accusers. Those who presented the most damaging testimony either conceived the scheme or were directly and personally involved. The accusers either have been convicted or have been granted immunity for their testimony. That means they have nothing to lose but much to gain.

Regardless of the outcome of appeals, Budd Dwyer has had his career in government closed — and Pennsylvanians have lost a highly capable, highly altruistic public servant.

But we are finding that he has not lost the respect and friendship of most area residents.

General Elections and one election for Delegate to the Republican National Convention, which was my personal Bi-Centennial Project in 1976.

I thank the good Lord for giving me 47 years of exciting challenges, stimulating experiences, many happy occasions and most of all, the finest wife and children any man could ever desire.

Now my life has changed for no apparent reason. People who call and write are exasperated and feel helpless. They know I am innocent and want to help, but in this nation, the world's greatest democracy, there is nothing they can do to prevent me from being punished for a crime they know I did not commit. Some who have called have said that I am a modern day Job.

Judge Muir is also noted for his Medieval sentences. I face a maximum sentence of 55 years in prison and a \$305,000 fine for being innocent. Judge Muir has already told the press that he felt "invigorated" when we were found guilty and that he plans to imprison me as a "deterrent" to other public officials. But it would be a deterrent because every public official who knows me, knows that I am innocent. It wouldn't be legitimate punishment because I've done nothing wrong. Since I'm a victim of political persecution my prison would simply be an American Gulag.

I ask those that believe in me to continue to extend friendship and prayer to my family, to work untiringly for the creation of a true Justice system here in the United States, and to press on with efforts to vindicate me, so that my family and their future families are not tainted by this injustice that has been perpetrated on me.

We were confident that right and truth would prevail and I would be acquitted and we would devote the rest of our lives working to create a Justice system here in the United States. The guilty verdict has strengthened that resolve. But as we've discussed our plans to expose the worth of our legal system, people have said, "Why bother? no one cares, you'll look foolish, 60 Minutes, 20-20, The American Civil Liberties Union, Jack Anderson and others have been publicizing cases like yours for years and it doesn't bother anyone."

I've repeatedly said that I'm not going to resign as State Treasurer. After many hours of thought and meditation I've made a decision that should not be an example to anyone else because it is unique to my situation. Last May I told you that after the trial, I would give you the story of the decade. To those of you who are shallow the events of this morning will be that story. But to those of you with depth and concern the real story will be what I hope and pray results from this morning-in the coming months and years, the development of a true Justice System here in the United States. I am going to die in office in an effort to "...see if the shame-ful facts, spread out in all their shame, will not burn through our civic shamelessness and set fire to American pride." Please tell my story on every radio and television station and in every newspaper and magazine in the U.S.. Please leave immediately if you have a weak stomach or mind since I don't want to cause physical or mental distress. Joanne, Rob, DeeDee - I love you! Thank you for making my life so happy. Good bye to all you on the count of 3. Please make sure that the sacrifice of my life is not in vain.